Environmental Defenders Office

1 September 2025

Climate Change Authority
Submitted via Consultation Hub

Dear Climate Change Authority,

Submission on the 2025 Annual Progress Report to inform the Minister's 4th Annual Climate Change Statement to Parliament

Environmental Defenders Office (**EDO**) welcomes the opportunity to make a submission on the 2025 Annual Progress Report to inform the Minister's 4th Annual Climate Change Statement to Parliament. EDO is Australia's largest public interest environmental law organisation, with extensive experience in climate and nature law reform, public interest litigation, and community legal education.

Australia's climate policy must be grounded in science, consistent with international obligations, and deliver both rapid emissions reductions and strong environmental protection. To ensure this is achieved, in summary we suggest that the Climate Change Authority advice should recommend:

- A strong 2035 emissions reduction target aligned with 1.5°C, in accordance with the International Court of Justice's (**ICJ**) recent Advisory Opinion on the responsibilities of States to take action on climate change.
- Inclusion of climate considerations in the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (**EPBC Act**) to ensure Australia's federal environment laws adequately consider the impacts of emissions posed by development on matters of national environmental significance.
- No further approvals of new or expanded fossil fuel projects, in line with the International Energy Agency and best science.
- Alignment of domestic policy with Australia's international climate obligations, including those set out in the ICJ Advisory Opinion.
- Integrity reforms to the Safeguard Mechanism (**SM**) that lower baselines, expand coverage, limit offsets, and drive on-site abatement, including:
    - The SM should differentiate between fossil fuels and other industries.
    - Fossil fuels must be phased out because of their downstream emissions; other industries which have a place in the future economy should be supported to decarbonise.
    - The SM should strictly limit the use of carbon credits and ensure real emissions reduction.

- The SM should be complemented by a clear plan to phase out fossil fuels and support workers and communities affected by the energy transition.
- The SM should be integrated into government decision-making processes to support orderly, fair and forward-looking decarbonisation.

The ICJ Advisory Opinion on the obligation of States in respect of climate change is a significant opportunity for Australia to align domestic policy with international legal obligations, including the rights of current and future generations; as well as to mitigate further legal risks posed by not complying with those obligations. This should guide the Authority's recommendations.

EDO would welcome the opportunity to provide further detail or to engage with the Authority directly on the matters raised in this submission.

1. Federal environmental laws must consider climate change and better link with the Safeguard Mechanism

Despite repeated calls from the community and experts, the EPBC Act still does not consider, let alone regulate, greenhouse gas (**GHG**) emissions and there is no meaningful connection between the operation of the SM and the assessment of GHG emitting proposed projects. This is a critical gap that undermines both climate action and environmental protection. The SM should ideally be integrated into government decision-making processes to support efficient, orderly, fair and forward-looking decarbonisation

EPAs of Victoria, South Australia and NSW have released this Guiding Principles document which succinctly sets out why the SM does not cover the field for emissions reduction regulation at a federal or state and territory level, stating:

- *The Safeguard Mechanism is not intended to prevent new facilities and does not directly interact with (or change) any existing approval processes.*
- *In addition, the Safeguard Mechanism is not an approval framework and does not require details of how emissions will be reduced, so GHG emissions information is required for states and territories to make decisions on development proposals.*
- *The Safeguard Mechanism provides a minimum net emissions intensity standard for Australia's highest emitting facilities. It does not preclude further action to regulate whether activities should be approved based on their emissions at a federal, state or territory level.*

Under the current EPBC Act, fossil fuel projects continue to be approved, despite the significant impacts their (direct and downstream) emissions will have on matters of national environmental significance such as the Great Barrier Reef. Five coal mine projects were granted EPBC approval in 2024/25, with a combined estimated annual emissions rate of over 2 gigatonnes, being Vulcan South, Caval Ridge Horsepit, Lake Vermont Meadowbank, Narrabri underground and Mount Pleasant Optimisation coal mines. There are a further thirteen coal mine expansions seeking EPBC approval currently, none of which will have their emissions, or the impacts of those emissions on matters of national environmental significance, specifically considered in this assessment under the current Act and all of which could be approved at this critical time.

2. There is no more room for new or expanded fossil fuels in a 1.5 degree aligned world

New or expanded coal and gas development is incompatible with the Paris Agreement temperature goals. This has been clear since 2021, when the International Energy Agency found that "beyond projects already committed as of 2021, there are no new oil and gas fields approved for development in our pathway, and no new coal mines or mine extensions are required".[1] This remains the case. The best available science suggests that the global carbon budget for a 50% chance of staying on a 1.5 degree warming pathway is already exceeded by existing and under-construction fossil fuel projects.[2]

Australia should adopt a policy framework that rules out the approval of projects inconsistent with achieving the temperature goals of the Paris Agreement, or with the target of net zero by 2050, in line with international best practice.

3. A strong 2035 target backed by effective policies is needed to drive emissions reduction

The Climate Change Authority should recommend a 2035 target consistent with limiting warming to 1.5°C, in line with the Paris Agreement. This requires deep and urgent cuts to emissions this decade, with a target of at least 75% below 2005 levels by 2035. Anything less would mean that Australia is failing to meet its international obligations to reduce GHG emissions and is compromising global efforts to reduce the risks of dangerous climate change.

4. Recognition needed of the high percentage of Australia's responsibility for GHG emissions is from exported emissions

Exported emissions continue to be the largest contribution to Australia's GHG emissions, and yet they are not required to be considered in the SM or national reporting frameworks. We strongly recommend that this be noted by the Climate Change Authority in its report with a recommendation that Australia takes responsibility for these exported emissions in our national reporting and environmental assessment regimes. This would ensure that Australia is meeting its international obligations clarified by the ICJ Advisory Opinion.

4. Safeguard Mechanism reforms are needed to ensure it is operating as effectively as possible to meet its goals

The SM is the only national-level fossil fuel mitigation policy in Australia, and yet it is subject to gaps and loopholes which are hindering its effectiveness at achieving its objectives. Under the current system, the baselines have not declined year on year in a trajectory towards meeting Australia's emissions targets. While the intention of the SM was to decrease emissions from the affected sectors, data has shown that emissions covered by the mechanism have in fact increased by 7% since its inception.[3]

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[1] Net Zero by 2050 A Roadmap for the Global Energy Sector Net Zero by 2050 - A Roadmap for the Global Energy Sector - Summary for Policy Makers, p 11.
[2] Trout, Kelly, et al. "Existing fossil fuel extraction would warm the world beyond 1.5 C." *Environmental Research Letters* 17.6 (2022): 064010. Existing fossil fuel extraction would warm the world beyond 1.5 °C - IOPscience
[3] RepuTex Energy (2021) The Economic Impact of the ALP's Powering Australia Plan, **https://www.reputex.com/wp-content/uploads/2021/12/REPUTEX_The-economic-impact-of-the-ALPs-Powering-Australia-Plan_Summary-Report-1221-2.pdf**

Reforms to the SM are needed to ensure it is fit for purpose. However, in addition to the SM, it is imperative that there is a targeted framework to ensure adequate regulation and prevention of new or expanded projects posing GHG emissions at a national and state/territory level in order for Australia to meet its emissions reductions responsibilities.

The Australian Government needs to fix the failings in our climate regime which are impeding emissions reductions efforts, including through integrity in reporting and emissions assessment, and by ensuring polluters are responsible for their climate pollution (including their downstream emissions).

Currently the SM is the major emissions reduction policy at the federal level, which means it is essential to ensure the SM is robust, transparent and has integrity, and that it meets its objectives. It is worth the focus and time to make sure the SM is effective within its mandate, and to ensure the regime achieves the intention of the 2023 reforms. Strengthening the SM to close loopholes and ensure emissions reductions are meaningful and guaranteed should have the beneficial flow on effect of incentivising low GHG industries, incentivising genuine GHG abatement, and appropriately addressing the high emissions from new and expanded fossil fuel projects.

There is a need to balance the intention to strengthen SM with fair application of the regime across industries, including with respect to access to credits.

As set out above, we recommend the CCA makes it clear in their advice that (as set out, with respect to State and Territory laws, at section 22XO of the National Greenhouse and Energy Reporting Act 2007 (**NGER Act**)) that the SM does not replace federal, state and territory assessment of emissions in line with emissions reductions targets.

EDO makes the following specific recommendations for reforms to ensure the SM is fit for purpose.

Coverage

- **Threshold should be reduced:** The threshold for covered facilities should be reduced below the current 100,000 tonnes of CO_2-e per year, as recommended by the Productivity Commission in its recent interim report which suggested that lowering to 25,000 tonnes of CO_2-e per year would be reasonable.[4]
- **Definition of 'covered emissions' needs to be expanded to appropriately account for Australia's GHG emissions:** 'Covered emissions' must include indirect emissions which are inevitable from the operation of the facility, including scope 2 and 3 emissions. Currently the focus solely on scope 1 emissions can lead to perverse outcomes which increase scope 2 emissions and yet these emissions are not covered by the SM. For example, a facility may begin using electricity from the coal fired grid while replacing on-site fossil fuel combustion rather than moving to renewable energy. Scope 3 emissions produced by burning fossil fuel emissions from the products Australia sells and profits from for this purpose must also be considered in 'covered emissions', where these are the largest contribution of emissions Australia is responsible for.

[4] Productivity Commission 2025, Investing in cheaper, cleaner energy and the net zero transformation, Interim report, Canberra, August, https://www.pc.gov.au/inquiries/current/net-zero/interim/net-zero-interim.pdf.

- **Definition of 'new entrants' needs to be expanded:** The government has committed to holding new entrants to emissions intensities that represent "international best practice". Any new facilities will be held to higher emissions standards than existing facilities, and new facilities will soak up some of the excess SMCs in the industry. Currently operators are able to bring in new activities under the guise of expansion activities due to the loose definition, meaning that these activities are subject to inappropriately lenient emissions reduction requirements. Amendments are needed to ensure expanding facilities and new entrants are accurately captured by international best practice standards.

Baseline Settings

- **Lower baselines and stronger decline rates:** To ensure sufficient emissions reductions occur, facility baselines should be reduced or otherwise their calculations changed to provide for a faster decline rate, particularly for coal and gas facilities.

  The Minister has the power to undertake this change, through the broad powers provided under section 22XS of the National Greenhouse and Energy Reporting Act 2007 (**NGER Act**), to make rules by legislative instrument to give effect to the SM. The Minister can amend the National Greenhouse and Energy Reporting (Safeguard Mechanism) Rule 2015 to define baseline emissions numbers for specific types of facility. For example, this has been undertaken for shale gas extraction facilities which is set to zero emissions. The Minister can also set rules relating to the process by which baseline emissions numbers from specific types of facilities are determined. This has occurred in the case of 'new' facilities, and landfill facilities.

Use of ACCUs

- **Limit reliance on offsets:** The SM should require facilities to achieve genuine on-site emissions reductions, not rely primarily on offsets. Use of Australian Carbon Credit Units (**ACCUs**) should be capped, phased out over time, or subject to strict limits (e.g. percentage of total compliance). Unlimited access to offsets is undermining the regulatory signal set by the declining baselines of the SM. Reforms may be needed to the Climate Change Act and the objects of the SM to remove this weakness in the current framework.

- **Prohibit opening to international credits:** Expanding the SM to allow credits from international markets will substantially reduce the quality assurance and effectiveness of the SM and cannot be allowed.

- **Remove the price cap:** While not yet activated, the legislated price cap on ACCUs undermines market integrity and should be repealed. Removal of this measure would signal that ACCU demand and use should not be unfettered.

Community Confidence in Credits

- **Credit integrity concerns:** Public trust in the SM requires urgent reform of Australia's carbon crediting framework. Continued use of discredited ACCU methods such as Human-Induced Regeneration and Avoided Deforestation must end.

- **Methane measurement:** Where methane emissions are likely the most significant scope 1 emissions from fossil fuel projects in Australia, these emissions must be accurately measured and reported to ensure that companies are held accountable for these emissions under the SM.

- **New methods:** Proposals for new ACCU methods, such as native forest protection, must be scrutinised to ensure they deliver real, verifiable abatement and do not undermine conservation outcomes.

Conclusion

Australia stands at a critical juncture in the steps it can take to meaningfully reduce climate emissions it is responsible for. The Safeguard Mechanism and broader federal climate framework must drive rapid, genuine emissions reductions while protecting nature and respecting communities.

For further information, please contact revel.pointon@edo.org.au.

Yours sincerely,

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Managing Lawyer, Policy and Law Reform